



**American
Hotel & Motel
Association**

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Office of the Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Comments on WT Docket No. 97-207

Dear Sir/Madam:

The American Hotel & Motel Association (AH&MA), a federation of state and local lodging associations, represents this nation's hotel and motel industry. Over 47,000 lodging properties with more than 3.6 million rooms and over 1.1 million employees exist in the United States. Our industry's annual sales exceed \$60 billion and our payroll exceeds \$17 million. AH&MA's membership ranges from the smallest independent properties to the largest convention hotels. Every hotel or motel in our country is unique due to factors that include size, type, location, services offered, clientele, ownership, and status as an independent or chain affiliate. In fact, there is a high degree of franchising and independent ownership in our industry.

We appreciate the opportunity to comment on the Federal Communications Commission's (FCC) proposed rule on Calling Party Pays (CPP).

Pursuant to the request from the FCC in paragraph 7 of the Declaratory Ruling and Notice of Proposed Rulemaking released July 7, 1999, seeking comment on four elements, AH&MA offers the following comments.

"First, we consider a uniform notification standard to protect calling parties by providing them with sufficient information to make an informed decision before completing a CPP call to a wireless subscriber and incurring charges."

It is the position of the AH&MA that more information than a mere uniform notification of rates is necessary for a CPP call to be completed and properly billed. The calling party and the CMRS carrier should know that the calling party has authorization to complete such calls and that any incurred charges will be billed correctly to the calling party.

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While we agree with the position that a uniform notification of rates is necessary for the consumer to make an informed decision prior to completing a CPP call, AH&MA members are appropriately concerned with fraud aspects of this proposal. AH&MA members are concerned that a guest making a CPP call may check out of the hotel property before paying for the CPP call made on a guest room phone. The call may eventually be traced back to the guest after he or she has checked out, thus leaving the lodging property to pay for the call, go through the process of contesting the charges, or attempt to collect from the former guest.

"Second, we discuss and seek comment on whether the proposed notification is sufficient to create an 'implied-in-fact' contract between the caller and the CMRS carrier"

It is the position of the AH&MA that, as contemplated by the FCC, the mere completion of a CPP call may not necessarily constitute a contract between the CPP caller and the CMRS carrier. If the calling party is not responsible for payment for calls made on a specific phone line, an "implied-in-fact" contract is in question. For example, a guest calling from a hotel phone may opt to make a CPP call if they know that billing cannot be easily traced back to them. As to the CPP caller, the call is, in fact, free. This issue also would be present in an office or home setting when an employee, a courier or perhaps a family friend makes a CPP call on a line for which they are not responsible for payment.

If a uniform notification of rates is to be treated as an "implied-in-fact" contract, then a lodging property must also have the billing information immediately available to appropriately charge the call to a guest. If such a billing scheme is unworkable, then the lodging property must have the option of blocking this service. This logic is analogous to other services, such as 900 numbers or call completion, where billing is not immediate and has proved unduly burdensome to the lodging industry.

"Third, we discuss whether there is any need for Commission action to protect callers from excessive rates for CPP calls."

While the lodging industry typically lauds efforts to allow free market forces to establish rates, AH&MA believes several elements need to be considered by the FCC.

The wireless subscriber may have no incentive to seek lower rates from a CMRS carrier (in fact the potential exists that a wireless subscriber may not even be aware of CPP rates) if they do not receive many incoming calls. In addition, if a wireless subscriber is able to arrange a CPP billing structure from a CMRS provider that includes a rebate provision on incoming calls, the wireless subscriber would have incentive to sign up for the CPP program offered by his or her CMRS provider and, perhaps, to lengthen the duration of incoming CPP calls.

In addition, a calling party seeking to contact a wireless subscriber may find CPP rates excessive, but may have no alternative to contact the subscriber. Traditionally, a caller may have several options available for completing a call: dialing directly from a hotel room, using a pay phone, utilizing a personal calling card, purchasing a pre-paid

card, etc. All these options may have different rates. Under CPP, however, there is only one option: pay the CMRS provider rate or do not call the wireless subscriber.

"Fourth, we discuss how CMRS providers may bill and collect from the calling party for calls to CPP subscribers, including LEX billing and collection."

To discuss the collecting for CPP calls, the lodging industry has two major concerns: allow for immediate billing or block these calls. While the lodging industry has no desire to block services guests may find valuable, our industry clearly has no desire to become a target for fraud. AH&MA members would support billing structures that will allow an existing lodging phone system to recognize CPP calls and immediately obtain correct billing information to accurately and timely bill the guest.

In addition to the above listed comments, AH&MA offers the following comments to paragraphs in the Declaratory Ruling and Notice of Proposed Rulemaking.

In paragraph 46, the FCC states *"Comments have been received that suggest a unique service code would be an effective approach because it would mean that CPP calls would be readily identifiable, and would enable telephone switches and private branch exchanges (PBXs) to easily identify such calls. . . .CPP introduces a new type of billable call."*

AH&MA agrees that CPP is a new type of billable call, but one with potential for abuse. AH&MA would endorse a unique wireless area code assignment for CPP subscribers. This will allow lodging properties, in the absence of a remedy for direct and immediate billing concerns, to block such calls (such as is the case with 900 numbers). For certain billing concerns to be adequately addressed, the existing lodging PBX equipment must be able to immediately recognize a CPP call.

A quantifiable assessment of lodging industry losses due to CPP fraud, replacement of PBX equipment, and/or upgrading of PBX equipment to accommodate blocking or recognition of CPP calls would require an extensive survey of the lodging industry. Due to the time constraints of the FCC filing deadline, such a survey is not possible. AH&MA does not, however, believe it to be an overstatement in stating that these costs will likely reach millions.

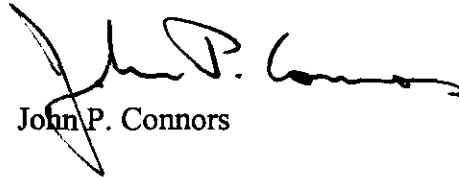
In paragraph 48, the FCC states *"We also seek comment on whether it is necessary or desirable to treat the notification for paging the same as mobile telephony. . . .Therefore, we solicit comments that address the best ways of balancing the need for a uniform CPP notification approach using special numbering codes, with the need to work within the special operating constraints of paging carriers."*

AH&MA believes that many of the same concerns expressed above with CPP also apply to PPP. The lodging property's existing PBX needs to recognize a PPP page, immediately receive the correct billing information, or be able to block such page.

Therefore, AH&MA would argue that PPP calls be held to the same standard as CPP calls.

AH&MA appreciates the opportunity to provide these comments to the FCC. The AH&MA respectfully submits that the goals of a CPP and PPP arrangement can be met if the issues of correct and immediate billing or blocking are addressed. If the FCC is to continue to proceed with this rulemaking, AH&MA urges these issues be addressed.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Connors", with a stylized flourish at the end.

John P. Connors

JPC/klm